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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/822,213 | 04/09/2004 | Gregory A. Piccionelli | 39003.814US01 | 1327 |
| 7590 Michael M. Gerardi, Esq. 2801 Townsgate Road, Suite 200 Westlake Village, CA 91361 | | | EXAMINER HADZONOZ, BANAFSHEH | |
| | | | ART UNIT 3715 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/822,213

Applicant(s)

PICCIONELLI ET AL.

Examiner

Banafsheh Hadizonooz

Art Unit

3715

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-46, 50, 62, 64-67, 69, 70 and 72-81 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-46, 50, 62, 64-67, 69-70 and 72-81 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

In response to correspondence filed on 02/23/2009, claims 44-46, 50, 62, 64-67, 69-70 and 72-81 are pending. This office action is made **Non-Final**.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 66 and 69 are rejected under 35 USC 101 as being directed to non-statutory subject matter. Computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical “things.” They are neither computer components nor statutory processes, as they are not “acts” being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program’s functionality to be realized. In contrast, a claimed computer- readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035. See MPEP 2106.01 [R-6].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44, 45, 50, 62, 64-67, 69,70, 72-81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rachman et al (US 2002/0182578) in view of Jenkins et al. (US 6,585,519) further in view of "Major League" as supported by "Major League" [http://en.wikipedia.org/wiki/Major_League_\(film\)](http://en.wikipedia.org/wiki/Major_League_(film)).

Regarding claims 44, 45, 64, 62, 65 and 72-81, Rachman discloses a system comprising the steps of opening an educational application that includes a plurality of questions pertaining to a subject (e.g. course), answering at least one question (e.g. test) included in the application, providing a link to the user to retrieve additional material (See Abstract and Fig.4B) and receiving a notification from the central site after the answer is provided (See Fig. 4B and 4C). Rachman does not expressly disclose viewing a model removing an article of clothing when the question is answered correctly. However, Jenkins discloses a motivational method for computer-assisted training system wherein periodic reward animations are presented to the user in such a way that the curiosity of the user to see the rest of the animation further motivates correct response (See Abstract). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Jenkins into the system and method of Rachman in order to design a system and method that encourages users to further input correct responses. Rachman/Jenkins do not specifically disclose a model

removing an article of clothing as a reward system. However, such motivational method is well known in the art. The baseball coach in Major League, the movie, motivates the team by removing a portion of a dress on a cardboard cut-out model for every game they win. Therefore, it would have been obvious to modify the system of Rachman/Jenkins to include the motivational method as disclosed by Major League in order to persuade the participants to enter a correct response.

Regarding claim 50, Rachman discloses accessing the central site (e.g. course support system) via a network, opening the educational application on a storage medium (e.g. database) provided by the user (See Fig. 1), opening the educational application that comprises a plurality of questions (See Fig. 4B) and receiving the notification from the system when the answer provided is correct (See fig. 4B).

Regarding claims 67 and 70, Rachman does not disclose that the storage medium is CD- Rom. However, the use of CD- ROMs as a storage medium is known in the industry.

Claim 66 discloses means to steps provided in claim 1.

Claim 69 discloses means to perform the steps disclosed in claim 44.

Response to Arguments

Applicant's arguments with respect to claims 44-46, 50, 62, 64-67, 69-70 and 72-81 have been considered but are moot in view of the new ground(s) of rejection.

The applicant further argues that the feature of viewing a model removing an article of clothing in exchange to a correct response is not a reward system nor is it a design choice. However, considering that the act is performed in response to

successfully answering a question, the examiner notes that the feature is in fact a reward system. Since there are plenty of prior arts that disclose a reward system in response to correctly responding to a stimuli (such as Jenkins), substituting one reward system for another to cover a specific age group could be considered as design choice.

The applicant further argues that the reward system disclosed by Jenkins does not necessarily motivate the user to enter a correct response. The examiner respectfully disagrees. Jenkins specifically mentions that the reward system motivates further correct responses to see more animations (See Abstract).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Banafsheh Hadizonooz whose telephone number is 571-272-1242. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272- 7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BH

/Cameron Saadat/
Primary Examiner, Art Unit 3715